

# Bylaws/Constitution Review Checklist

**Note:** Items checked indicate that the item is present in the document under review. Comments in *bold italic* font are observations or recommendations specific to the document under review, regardless of whether the checklist item is marked as present in that particular document.

## Bylaws/Constitution Components

**Written Bylaws/Constitution:** Ministries are encouraged to establish organizational documents such as bylaws and/or a constitution. Ministries may vary on which organizational documents they utilize, and state laws may have specific requirements related to which organizational documents an organization is required to maintain. Even if not required by state law, most organizations develop and maintain bylaws, which are essential for charitable organizations and their initial formation as they communicate the organization's internal operating rules and the daily work of the organization. An organization's bylaws will typically include items such as the organization's purpose, location of principle offices, the role of members and directors, establishment of committees, procedures for entering into transactions on behalf of the organization, books and records, fiscal year, indemnification, notices, meeting procedures, amendment process, and conflicts of interest, among others. Brotherhood Mutual's "[What Should Our Ministry Know About Bylaws?](#)" article discusses further the importance of developing and maintaining bylaws.

**Belief-based Decisions:** Ministries are wise to document their sincerely held beliefs. One way that this is often done is to include sincerely held beliefs in a ministry's bylaws or other governing documents. It is generally a good idea for ministries to at least include a purpose statement in their bylaws which outlines the ministry's foundational beliefs, along with the ministry's mission and purpose. In addition to including basic doctrinal beliefs and/or a purpose statement in a ministry's bylaws, some ministries incorporate their belief-based decisions on specific topics such as marriage, gender, sexual intimacy, and other topics upon which the ministry may have sincerely held beliefs. Other ministries choose to only address these types of specific topics in their operational documents (e.g., employment handbook, volunteer policies, wedding policies, facility use agreement). Regardless of how a ministry chooses to document its sincerely held beliefs, it is wise to include scriptural references in support of the ministry's beliefs. Although not absolute, including specific references to Scripture in support of the ministry's beliefs helps to strengthen the ministry's position that its policies and practices are based upon sincerely held religious beliefs.

Brotherhood Mutual has developed a resource page for [Religious Freedom Protection](#) that includes several resources that may be helpful as ministry leaders seek to protect their freedom to conduct ministry operations in accordance with the ministry's sincerely held beliefs, including a sample Purpose Statement, Morals Clause, and Marriage, Gender, and Appropriate Behavior Clause.

**Indemnification:** Ministries are encouraged to include an indemnification provision in their bylaws. An indemnification provision can help protect individuals who are working for the ministry from incurring out-of-pocket costs if they are sued because of their work on behalf of the ministry. A promise to indemnify ministry leaders in a ministry's governing documents is a promise to compensate or reimburse an individual for a loss incurred in relation to their service to the ministry. In addition to including an indemnification provision in a ministry's governing documents, it is generally a good idea to include a provision which specifically gives the governing board the right to decide if an individual will be indemnified. By retaining this power, the ministry can avoid covering costs associated with grossly negligent, wrongful, or criminal acts.

In addition to these limitations, it is beneficial to specify when the ministry will provide indemnification. Specifically stating in the governing documents that indemnification is provided only when an individual's actions are consistent with the ministry's sincerely held religious beliefs, they further the purpose of the ministry, and they are within an individual's authority can also help the ministry avoid paying for costs associated with an act of which the ministry does not approve.

Brotherhood Mutual has developed resources addressing these issues, including [Sample Indemnification Provisions](#), which the ministry can use as a tool as it develops its own indemnification provisions with the assistance of a local attorney. Some of the additional resources we offer on this topic include:

[Should We Include Indemnification Provisions in Our Ministry Bylaws?](#)  
[What's the Right Way to Draft Bylaw Indemnification Provisions?](#)

**Insurance:** Regarding insurance, ministries are encouraged to purchase and maintain liability insurance on behalf of all persons who are or were a director, officer, leader, employee, committee member, or volunteer of the ministry for the purpose of protecting such persons from covered loss resulting in liability asserted against these individuals which relates to their activities on behalf of the ministry. Ministries that have purchased insurance coverage for their directors and officers may consider adding an insurance provision to its bylaws that states the ministry will maintain such coverage for the benefit of its directors and officers. Brotherhood Mutual offers a Directors and Officers Liability Coverage endorsement which is intended to provide coverage for financial damages resulting from wrongful activities by the ministry and its leaders. Brotherhood Mutual's [Protect Your Ministry's Directors and Officers](#) resource describes this coverage in more detail.

**Membership:** Ministries that include membership as part of their organizational structure often require their members to be composed of individuals who are believers and who agree with the ministry's sincerely held religious beliefs. An example of a membership statement that ministries might include in their governing documents may include the following: "The membership of this church shall be composed of believers in the Lord Jesus Christ who offer evidence, by their confession and their conduct, that they are living in accord with the Bible and the ministry's Constitution and Bylaws, and are actively pursuing and continuing in a vital fellowship with the Lord Jesus Christ." Some ministries also require church members to sign a Church Membership Agreement to communicate the ministry's statement of faith and sincerely held religious beliefs to prospective members and to document their understanding and agreement to those beliefs. Such an agreement can be helpful in relation to church discipline or if conflict arises with a member.

**Conflicts of Interest:** It is generally a good idea for ministries to include a conflict of interest statement in their bylaws. A conflict of interest can arise when an individual who has an interest in protecting and endorsing the ministry's interest also has an actual or potential opposing personal interest. To protect the ministry and other individuals who may be involved where a potential conflict of interest exists, the situation should be disclosed to the ministry's board and evaluated by the board to determine if a conflict of interest exists and how the situation should be handled. A conflict of interest policy can be used to describe the types of situations and relationships that would give rise to a conflict of interest, as well as to provide the appropriate steps to be taken when a potential conflict of interest exists and the proper method for disclosing and addressing the conflict.

**Directors and Officers:** It is common practice for a ministry's bylaws to include a section(s) related to director and officer positions. Often nonprofit corporations are required to have a board of directors with certain officer positions. Some states laws may specifically list certain officer positions that are required to be filled by the organization (such as CEO/Present, CFO/Treasurer, and Secretary). Ministries are encouraged to speak with a local attorney to determine whether their governing structure is in compliance with state law requirements. It is also a good idea to include procedures in a ministry's bylaws for how directors and officers are elected and removed, how vacancies are to be filled, and the specific duties of directors and officers.

**Amendments:** It is recommended that bylaws and other governing documents outline the process by which they may be amended. This may include the requirement of a business meeting (announced before the meeting occurs), specific voting procedures, and allowing members the opportunity to weigh in on the proposed amendment.

**Dissolution:** It is typically recommended that ministries include a dissolution provision in their bylaws that is in compliance with applicable law, especially section 501(c)(3) of the Internal Revenue Code. Some

ministries also include provisions in their bylaws regarding disassociation which will address situations in which they consider disassociating from a regional or denominational governing body. Of course, these are simply "what if" provisions which may never be invoked, but they can be helpful to include in ministry bylaws in the event dissolution/disassociation may take place.

**Meeting Procedures:** Most states require nonprofit corporations with members to hold periodic business meetings at least annually with the membership and may require that prior notice of the meeting be provided to members in specified manner. Ministries are encouraged to develop procedures for holding organizational meetings that comply with applicable state laws at a minimum and are also consistent with ministries' operational needs. Ministries' bylaws should also include procedures for calling special meetings which take place in addition to required periodic meetings.

**Voting Procedures:** It is common for bylaws to include voting procedures. These might address board member voting and votes by members of the organization. Common bylaw voting procedures specify who is entitled to vote, how votes can be cast, the minimum number of people required to be present for a vote to be taken (i.e. a quorum), and the required number of votes to pass an order of business.